

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
KENNETH FRANCIS WHITE,  
  
Defendant.

CASE NO. CR12-0067-JCC

ORDER

This matter comes before the Court on Defendant's motion for early termination of supervised release (Dkt. No. 86). Having thoroughly considered the parties' briefing and the relevant record, the Court finds oral argument unnecessary and hereby DENIES the motion for the reasons explained herein.

**I. BACKGROUND**

On April 25, 2012, Defendant pled guilty to failure to register as a sex offender arising from his 1986 second degree rape conviction. (*See* Dkt. No. 23.) On July 6, 2012, the Court sentenced Defendant to time served and ten years of supervised release. (*See* Dkt. No. 34.) Defendant has violated the terms of his supervised release multiple times. (*See* Dkt. Nos. 39, 53, 66, 85.) He has violated the terms of his curfew and electronic monitoring as well as the prohibition on consumption of alcohol and marijuana. The Court denied Defendant's previous motion for early termination of supervised release in 2015, citing his difficulty adhering to the

1 conditions of supervised release and the need to deter future unlawful conduct. (Dkt. No. 56 at  
2 3.)

3       Shortly after Defendant filed this motion for early termination of supervised release, his  
4 probation officer notified the Court that Defendant had failed to return to his transitional housing  
5 by curfew on March 30, 2019, and did not return until the following day. (Dkt. No. 88 at 2.)  
6 Defendant now moves for early termination of his supervised release, which is scheduled to  
7 expire in November 2019. (Dkt. No. 86.) The Government and Probation oppose Defendant's  
8 request. (Dkt. Nos. 87, 88.)

## 9 **II. DISCUSSION**

### 10 **A. Legal Standard**

11       The Court may terminate a defendant's term of supervised release after a year has  
12 elapsed, if the Court is "satisfied that [early termination] is warranted by the conduct of the  
13 defendant released and the interest of justice." 18 U.S.C. § 3583(e)(1). The Court must consider  
14 eight factors when deciding whether a defendant's motion for early termination of supervised  
15 release should be granted.<sup>1</sup> *Id.* The Court has broad discretion "to consider a wide range of  
16 circumstances" when determining whether to grant a motion for early termination of supervised  
17 release. *United States v. Emmett*, 749 F.3d 817, 819 (9th Cir. 2014).

### 18 **B. Application of § 3583 Factors to Defendant**

19       The most relevant factors to this case are the nature of the offense and history of  
20 Defendant, the need to afford adequate deterrence, ensure public safety, and provide Defendant  
21 with correctional treatment. *See* 18 U.S.C. §§ 3553(a)(1), (a)(2)(B)–(D).

---

22  
23       <sup>1</sup> Pursuant to 18 U.S.C. § 3583, the factors a Court must consider are: (1) the nature and  
24 circumstances of the offense and the history and characteristics of the defendant; (2) the need to  
25 afford adequate deterrence to criminal conduct; (3) the need to protect the public from further  
26 crimes of the defendant, (4) the need to provide the defendant with correctional treatment; (5) the  
sentencing range; (6) policy statements of the sentencing commission; (7) unwarranted  
sentencing disparities; and (8) restitution owed to victims. *See* 18 U.S.C. §§ 3553(a)(1),  
(a)(2)(B)–(D), and (a)(4)–(7).

1 Defendant's period of supervised release stems from his failure to register as a sex  
2 offender. (*See* Dkt. No. 1.) Although his underlying sex offense is from 1986, Defendant's  
3 conviction for failure to register is much more recent. (*Id.*) Defendant lived in Washington State  
4 from 2009 to 2012 and failed to register during that period. (*Id.* at 4–5.) Prior to that, Defendant  
5 failed to register in Nevada. (*Id.* at 4.) On July 6, 2012, the Court sentenced Defendant to time  
6 served and a ten-year term of supervised release. (*See* Dkt. No. 34.) Defendant has registered as  
7 an offender while on supervised release, but continues to violate the other conditions of his  
8 probation, such as abstaining from alcohol and marijuana and following his curfew. (*See*  
9 *generally* Dkt. No. 88.)

10 Defendant stated that stable housing and employment would support his compliance with  
11 the conditions of his supervised release. (*See* Dkt. 60.) Since 2016, Defendant has been  
12 employed by Styro Recycle and has resided in clean and sober housing. (Dkt. No. 67 at 1.)  
13 However, Defendant's struggles with alcohol, marijuana, and homelessness have been  
14 documented throughout the period of his supervised release. (*See* Dkt. No. 88.) In addition to  
15 these past violations, Defendant's probation officer expressed concern over Defendant's recent  
16 unexplained absence from his housing, and his failure to communicate with either his housing  
17 manager or probation officer about his absence. (*Id.* at 2.) Defendant's probation officer stated  
18 that as a sex offender, Defendant should not be staying the night away from his approved  
19 housing without his probation officer's permission. (*Id.*) Therefore, the nature of the offense and  
20 the characteristics of Defendant do not support early termination of supervised release.  
21 Defendant's pattern of violations while on supervised release also indicate that he has not been  
22 sufficiently deterred from unlawful conduct.

23 While the Court does not conclude that Defendant poses a clear safety risk to the  
24 community, it also considers whether continued supervision provides Defendant with  
25 "correctional treatment in the most effective manner." *See* 18 U.S.C. § 3553(a)(2)(D). Defendant  
26 argues that the conditions of his supervised release are a hindrance. (Dkt. No. 86 at 3.) Based

1 upon Defendant's struggles with housing and sobriety, the conditions of supervised release are  
2 protective and necessary in this case. Requiring abstention from alcohol as a term of supervised  
3 release can serve as a check on Defendant's conduct, thus helping to preserve his employment  
4 and clean and sober housing. Therefore, this factor does not support early termination of  
5 supervised release. Considering all of the relevant factors, the Court concludes that early  
6 termination is neither warranted by Defendant's conduct nor in the interest of justice.

7 **III. CONCLUSION**

8 For the foregoing reasons, Defendant's motion for early termination of supervised release  
9 (Dkt. No. 86) is DENIED.

10 DATED this 8th day of April 2019.

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

A handwritten signature in black ink, reading "John C. Coughenour", is written over a horizontal line.

John C. Coughenour  
UNITED STATES DISTRICT JUDGE